

09/921851

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**FEB 09 2007****Certificate**  
**FEB 12 2007**  
**of Correction****FACSIMILE TRANSMITTAL****TO:****FROM:****Name:** Office of Patent Publication  
Certificate of Corrections Branch**Name:** Thomas H. Martin**Firm:** U.S. Patent & Trademark Office**Phone No.:** 330-877-2277**Fax No.:** 571-273-8300**No. of Pages (including this):** 13**Subject:** Request for Certificate of Correction**Date:** February 9, 2007

U.S. Patent No. 7,166,129

Issued: January 23, 2007

Gary Karlin Michelson

**METHOD FOR FORMING A SPINAL IMPLANT****SURFACE CONFIGURATION**

Attorney Docket No.: 101.0084-02000

Customer No. 22882

**Confirmation Copy to Follow: No****Message:****CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8**

I hereby certify that the attached Request for Certificate of Correction with 1 sheet of Form PTO-1050 (in duplicate) and 8 sheets of supporting documents are being facsimile transmitted to the U.S. Patent and Trademark Office on February 9, 2007.

  
Sandra L. Blackmon

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**FEB 15 2007**

**FEB 09 2007**
 PATENT  
 Attorney Docket No. 101.0084-02000  
 Customer No. 22882

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re U.S. Patent of: )  
 Gary Karlin Michelson )  
 Patent No. 7,166,129 ) (Application No.: 09/921,851)  
 Issue Date: January 23, 2007 ) (Filed: August 3, 2001)  
 For: METHOD FOR FORMING A )  
       SPINAL IMPLANT SURFACE )  
       CONFIGURATION )

Certificate of Correction Branch  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Sir:

**REQUEST FOR CERTIFICATE OF CORRECTION**

Pursuant to 35 U.S.C. § 254 and 37 C.F.R. § 1.322, this is a request for the issuance of a Certificate of Correction in the above-identified patent. Two (2) copies of PTO Form 1050 are appended. The complete Certificate of Correction involves one (1) page.

The mistakes identified in the appended Form occurred through the fault of the Patent Office, as clearly disclosed by the records of the application which matured into this patent, and as evidenced in the attached copies of the following documents:

1. Form PTO-1449 dated September 12, 2003 listing the missing reference; and the first page of an Information Disclosure Statement initialed on December 2, 2003 showing the Examiner's consideration of the missing reference;
2. Pages 8 and 9 of the July 17, 2006 Amendment, showing the correct language of issued claim 7 (pending claim 229), and issued claims 29-31 (pending claims 236-238, respectively);
3. Pages 3-5 of the July 17, 2006 Amendment, showing the correct language of issued claim 23 (pending claim 130), and issued claim 35 (pending claim 214); and

**FEB 15 2007****FEB 15 2007**


4. Page 10 of the July 17, 2006 Amendment, showing the correct language of issued claim 42 (pending claim 242).

Issuance of the Certificate of Correction containing the correction is earnestly requested.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: February 9, 2007

By:   
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FEB 15 2007

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PTO/SB/44 (04-05)  
(Also Form PTO-1050)UNITED STATES PATENT AND TRADEMARK OFFICE  
CERTIFICATE OF CORRECTION

PATENT NO. : 7,166,129  
APPLICATION NO. : 09/921,851  
ISSUE DATE : January 23, 2007  
INVENTOR(S) : Gary K. Michelson

Page 1 of 1

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title Page 2:  
Item (56), U.S. Patent Documents, after "6,432,106 B1 8/2002 Fraser" insert the following:  
-- 6,482,233B1 11/2002 Aebi --.

Column 11, line 55:  
Change "farming" to -- forming --.

Column 13, line 37:  
Change "cub-step" to -- sub-step --.

Column 14:  
Line 8: change "fine" to -- line --;  
Line 15: change "farming" to -- forming --;  
Lines 19 and 60: change "feast" to -- least --; and  
Lines 63 and 65: change "facet" to -- facet, --.

Column 15:  
Line 5: change "culling" to -- cutting --;  
Line 33: change "Interbody" to -- Interbody --; and  
Line 50: change "implant" to -- implant --.

PATENT NO. 7,166,129

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PTO/SB/44 (04-05)  
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CERTIFICATE OF CORRECTION

PATENT NO. : 7,166,129  
APPLICATION NO. : 09/921,851  
ISSUE DATE : January 23, 2007  
INVENTOR(S) : Gary K. Michelson

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SEP 15 2003

**OFFICIAL**

In re Application of:

Gary K. Michelson, M.D.

Serial No.: 09/921,851

Filed: August 3, 2001

For: SPINAL IMPLANT SURFACE  
CONFIGURATION

Group Art Unit: 3738

Examiner: B. Snow

Confirmation No. 8299

Mail Stop: RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)**

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), applicant brings to the attention of the Examiner the documents listed on the attached PTO 1449. This Information Disclosure Statement is being filed concurrently with a Request for Continued Examination for the above-referenced application.

A copy of the listed document is attached.

Applicant brings to the Examiner's attention the following U.S. co-pending application of applicant; the claims and drawings of which are attached hereto:

NOT FOR PUBLICATION			
Examiner Initial	Application Number	Filing Date	Publication/Patent No.
<i>[Signature]</i>	09/572,618	17MAY00	N/A

Received from <3102862705> at 9/12/03 7:21:55 PM [Eastern Daylight Time]

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Amendment dated July 17, 2006  
Reply to Office Action of February 16, 2006

229. (previously presented) The method of claim 221, wherein the step of forming includes forming said at least two surface projections to have substantially the same maximum height from the surface of said implant.
230. (previously presented) The method of claim 221, wherein the step of providing the implant includes providing an implant having at least one opening in each of the upper and lower surfaces in communication with one another, the openings being configured to permit for the growth of bone from vertebral body to adjacent vertebral body through the implant.
231. (previously presented) The method of claim 230, further comprising the step of combining the implant with at least one of harvested bone, bone morphogenetic proteins, hydroxyapatite, and genes coding for the production of bone.
232. (previously presented) The method of claim 230, wherein the step of providing the implant includes providing an implant having an internal chamber between the upper and lower surfaces and in communication with the at least one opening in each of the upper and lower surfaces, the internal chamber being adapted to contain bone growth promoting materials.
233. (previously presented) The method of claim 232, further comprising the step of combining the implant with at least one of harvested bone, bone morphogenetic proteins, hydroxyapatite, and genes coding for the production of bone.
234. (previously presented) The method of claim 221, wherein the step of forming the plurality of surface projections includes using a milling instrument.
235. (previously presented) The method of claim 234, wherein the milling instrument includes a cutting tool with a V-shaped profile.
236. (previously presented) The method of claim 126, wherein at least a fifth and sixth of said surface projections formed during the step of forming each have a third facet configuration with at least one forward facet directed at least in part toward the leading end and at least one rearward facet directed at least in part toward the trailing end, said forward facet and said rearward facet of said third facet configuration having a length and a slope, the length of said forward facet of said



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third facet configuration being longer than the length of said rearward facet of said third facet configuration, the slope of said rearward facet of said third facet configuration being steeper than the slope of said forward facet of said third facet configuration, said fifth and sixth surface projections each having a peak along a third line that is transverse to the mid-longitudinal axis and off-set from the first and second lines, the third facet configuration of the fifth and sixth surface projections being different from the first facet configuration of the first and second surface projections and the second facet configuration of the third and fourth surface projections.

237. (previously presented) The method of claim 126, wherein the step of forming includes forming said forward facets of said first and second surface projections to face the same direction.

238. (previously presented) The method of claim 126, wherein the step of forming includes forming at least one of the surface projections along the first line to have a maximum height from the surface of the implant that is substantially the same as the maximum height of one of the surface projections along the second line.

239. (previously presented) The method of claim 126, wherein the step of forming includes forming at least three surface projections having the first facet configuration along the first line and forming at least three surface projections having the second facet configuration along the second line.

240. (previously presented) The method of claim 126, wherein the step of forming includes forming at least four surface projections having the first facet configuration along the first line and forming at least four surface projections having the second facet configuration along the second line.

241. (previously presented) The method of claim 126, wherein the step of forming includes forming at least five surface projections having the first facet configuration along the first line and forming at least five surface projections having the second facet configuration along the second line.

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having at least a first portion in a plane passing through and being at an angle to the mid-longitudinal axis of the implant, said first and second surface projections each having a peak along a first line that is transverse to the mid-longitudinal axis of said implant; and

at least a third and fourth of said surface projections each having a second facet configuration with at least one forward facet directed at least in part toward the leading end and at least one rearward facet directed at least in part toward the trailing end, said forward facet and said rearward facet of said second facet configuration having a length and a slope, the length of said forward facet of said second facet configuration being longer than the length of said rearward facet of said second facet configuration, the slope of said rearward facet of said second facet configuration being steeper than the slope of said forward facet of said second facet configuration, said third and fourth surface projections each having a peak along a second line that is transverse to the mid-longitudinal axis and off-set from the first line transverse to the mid-longitudinal axis, the second facet configuration of the third and fourth surface projections being different from the first facet configuration of the first and second surface projections.

127. (previously presented) The method of claim 126, wherein the step of forming includes one of the sub-steps of grinding, milling, burning, lasering, burnishing, electric discharge machining, broaching, and machining to form said surface projections.
128. (previously presented) The method of claim 126, wherein the steps of providing and forming include the sub-step of casting to form said implant with said surface projections.
129. (previously presented) The method of claim 126, wherein said forming step includes the sub-step of orienting said projections relative to one another to form an array.
130. (previously presented) The method of claim 126, wherein said forming step includes the sub-step of orienting said projections to be geometrically disposed

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relative to one another.

Claims 131-206 (cancelled).

207. (previously presented) The method of claim 126, wherein the step of providing the implant includes providing an implant having at least one opening in each of the upper and lower surfaces in communication with one another, the openings being configured to permit for the growth of bone from vertebral body to adjacent vertebral body through the implant.
208. (previously presented) The method of claim 207, further comprising the step of combining the implant with at least one of harvested bone, bone morphogenetic proteins, hydroxyapatite, and genes coding for the production of bone.
209. (previously presented) The method of claim 207, wherein the step of providing the implant includes providing an implant having an internal chamber between the upper and lower surfaces and in communication with the at least one opening in each of the upper and lower surfaces, the internal chamber being adapted to contain bone growth promoting materials.
210. (previously presented) The method of claim 209, further comprising the step of combining the implant with at least one of harvested bone, bone morphogenetic proteins, hydroxyapatite, and genes coding for the production of bone.

Claims 211-212 (cancelled).

213. (previously presented) The method of claim 126, wherein the step of forming the plurality of surface projections includes using a milling instrument.

214. (previously presented) A method for forming an interbody spinal implant having an exterior surface with a plurality of bone engaging structures for insertion between adjacent vertebral bodies of a human spine, the method comprising the steps of:

providing the implant comprising a leading end for introduction of the spinal implant into the spine, an opposite trailing end, spaced apart sides therebetween, and a mid-longitudinal axis passing through the leading and trailing ends, opposite upper and lower surfaces between said leading and

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trailing ends and said spaced apart sides, said upper surface adapted for placement toward the bone of one of the vertebral bodies and said opposite lower surface adapted for placement toward the bone of the other of the vertebral bodies when the implant is placed between the adjacent vertebral bodies; and

forming surface projections as part of the upper and lower surfaces of the implant with a milling instrument, at least two of said surface projections each having at least one forward facet directed at least in part toward the leading end and at least one rearward facet directed at least in part toward the trailing end, said forward facet and said rearward facet having a length and a slope, the length of said forward facet being longer than the length of said rearward facet, the slope of said rearward facet being steeper than the slope of said forward facet, said at least two of said surface projections having opposed side facets between said forward facet and said rearward facet, said side facets having at least a first portion in a plane passing through and being at an angle to the mid-longitudinal axis of the implant, said forward facets of said at least two of said surface projections facing the same direction, wherein the milling instrument includes a cutting tool with a V-shaped profile.

215. (previously presented) The method of claim 214, wherein the step of providing the implant includes providing an implant having at least one opening in each of the upper and lower surfaces in communication with one another, the openings being configured to permit for the growth of bone from vertebral body to adjacent vertebral body through the implant.
216. (previously presented) The method of claim 215, further comprising the step of combining the implant with at least one of harvested bone, bone morphogenetic proteins, hydroxyapatite, and genes coding for the production of bone.
217. (previously presented) The method of claim 215, wherein the step of providing the implant includes providing an implant having an internal chamber between the upper and lower surfaces and in communication with the at least one

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242. (previously presented) A method for forming an interbody spinal implant having an exterior surface with a plurality of bone engaging structures for insertion between adjacent vertebral bodies of a human spine, the method comprising the steps of:

providing the implant comprising a leading end for introduction of the spinal implant into the spine, an opposite trailing end, spaced apart sides therebetween, and a mid-longitudinal axis passing through the leading and trailing ends, opposite upper and lower surfaces between said leading and trailing ends and said spaced apart sides, said upper surface adapted for placement toward the bone of one of the vertebral bodies and said opposite lower surface adapted for placement toward the bone of the other of the vertebral bodies when the implant is placed between the adjacent vertebral bodies; and

forming surface projections as part of the upper and lower surfaces of the implant:

at least a first and second of said surface projections each having a first facet configuration with at least one forward facet directed at least in part toward the leading end and at least one rearward facet directed at least in part toward the trailing end, said forward facet and said rearward facet having a length and a slope, the length of said forward facet being longer than the length of said rearward facet, the slope of said rearward facet being steeper than the slope of said forward facet, said first and second surface projections each having a peak along a first line that is transverse to the mid-longitudinal axis of said implant; and

at least a third and fourth of said surface projections each having a second facet configuration with at least one forward facet directed at least in part toward the leading end and at least one rearward facet directed at least in part toward the trailing end, said forward facet and said rearward facet of said second facet configuration having a length and a slope, the length of said forward facet

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